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THE EUROPEAN UNION AND THE U.S.A.: TWO COMPLEMENTARY VERSIONS OF WESTERN “EMPIRES”?

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In the following paper, I want, first, to clarify different concepts of empire. Second, I wish to compare two polities, namely, the U.S.A. and the European Union, and discuss their future prospects. I am particularly interested in the tension between the universalist value system of the two polities and the way they organise their foreign policy.

Of the various states that are debated as possible candidates for imperial roles in the 21st century—China, India and Russia being the other three candidates—the U.S.A. and the European Union are those particularly amenable to comparison, since they are culturally closer to each other than either of them is to any other potential empire. This is to a large extent a result of the historical process that produced the United States out of an earlier empire, the British one. By breaking off from the British Empire at a time when it was still far from achieving its greatest extension, and almost two hundred years before the British Empire’s last substantial colonial possessions became independent, the United States, despite all of its anti-colonial rhetoric, inevitably inherited many British traits. In addition to this, for a significant period, most of the States’ immigrants came from various European countries, and consequently it has in its ethnic composition a greater proximity to the contemporary European Union than any other country on this planet. At the same time, and this is what makes the comparison so fruitful, although the States’ cultural differences from Europe were already significant in the 18th and in the 19th century, they have partly increased in the course of the 20th century, due also to the immigration from Asia and Latin America; but in other respects they have diminished. Comparing the two most important political structures of Western origin may thus shed light on the nature and process of Western modernity and its chances of expansion in the 21st century. Certainly China and even India do not belong to this family of Western civilisations. There is some hesitation with regard to India, due to its British colonial past and the use of English both as an official

language and as *lingua franca* for many fellow-citizens from different linguistic backgrounds. However, the case is different with regard to Russia, which from the 16th century onward was regarded as a major European power and shared a Christian heritage with the West. Still, Russia lacks in her history the commitment to the basic Western principles of liberalism and democracy that today are common denominators in the U.S.A. and the European Union, and are far more significant for the contemporary identity of these polities than common religious convictions. While geographically, historically and religiously closer to the Western countries, there is little doubt that Russia is politically more distant from modern standards of democracy than, for example, India. Thus, the focus on the U.S.A. and the European Union is justified by an objective similarity. In the following paper, I want, first, to clarify different concepts of empire, second, to compare the two polities at stake and discuss their future prospects. I am particularly interested in the tension between the universalist value system of the two polities and the way they organise their foreign policy.

I

In the title of my paper, I have used the term “empire,” but only in quotation marks. As is well known, there are intelligent political analysts such as Sidney Lens, Chalmers Johnson, Niall Ferguson or Jan Zielonka who apply the notion of empire to both polities, but their usage of the term varies according to the meaning they allocate to it. Clearly, the term “empire” has (at least) three very different meanings that are sometimes confused. It is only if we distinguish between them that we can make sense of the astonishing fact that in addition to the historical rise and fall of individual empires, several empires have coexisted concurrently. This is in itself surprising, since empires often put forward the claim of ruling the entire world.¹ This claim was, in earlier periods of history, fortunately limited by the imperial power’s very partial knowledge of what made up the world: for example, the Chinese and the Romans did not know a great deal about one another. Nonetheless, there are a sufficient

¹ Think of the political doctrine of the Chinese Empire as well as the first book of Dante’s *De monarchia*.

number of cases of small so-called “empires” coexisting, as was the case after the conquest of Constantinople in 1204.

Why? One answer to this question leads to the first definition of an empire: An empire is a polity that declares itself an “empire” and is recognised by other states as an “empire.” Such a definition is logically sound and not at all circular, because in the *definiens* the term is mentioned, not used as in the *definiendum*. However, it is true that in order to extend this definition to cases where the language of the empire is not English, we would need some non-linguistic criteria that allow the translation of the term from other languages into English. Sometimes a polity’s claim to be an empire is immediately and evidently ridiculous and, thus, inevitably short-lived, as in the case of Jean-Bédél Bokassa’s Central-African Empire. Nonetheless, sometimes, the claim is not simply made up by megalomaniac rulers, but can be explained by tradition, even if these traditions are in overt contradiction with the other traits of empire that will be discussed in a moment.

The state is recognised as an “empire,” because it is, or at least claims to be, the *legal successor* of (or identical with) a state that was once an empire in a more substantial sense of the word. This is why the empires of Nicaea and Trebizond could claim to be empires: they regarded themselves as the successors of the Byzantine Empire, which in turn continued the Eastern part of the Roman Empire. In the Middle Ages, the belief in the legal transfer of imperial authority from the Romans, *via* certain intermediaries, to the Holy Roman Empire was a legitimising factor, as the doctrine of the *translatio imperii* demonstrates.² This belief was defended by Otto of Freising in spite of being denied by French and English thinkers, and continued to generate legitimacy until the dissolution of this empire in 1806. Although in the 12th century this polity was indeed one of the most powerful structures in Europe, in the course of the Thirty Years’ War and in the post-Westphalian world, it had become far less important than its neighbouring states. The situation is reminiscent of titles of nobility: at the beginning, titles are a reward for objective deeds, while later they only signify descent from persons who carried out great acts. In our contemporary world, in which legitimacy *via* heritage has lost much of its appeal, the obsession with legitimate de-

²On the doctrine of the *translatio*, see Jacques Le Goff, *La civilisation de l’Occident médiéval* (Paris: Arthaud, 1977), 218ff.

scent from an empire has faded away. However, the continued reappearance of the term “Reich,” both in the Weimar Republic and in the Third Reich, and its equivalent term in Japan, shows that this concern with legitimate descent is not simply a feature of the distant past.

The second definition of “empire” points to the objective domestic features of the polity in question. According to it, an empire is a polity that controls, first, *an extended land mass* and governs, secondly, *a plurality of ethnic groups* (whether or not it calls itself an “empire”). The two categories are usually—empirically, rather than conceptually—connected, since a larger land mass tends to encompass different ethnic groups. (I must ignore here the notoriously difficult question of how to define an ethnic group.) I do not presuppose that an empire has overseas territories or even command of the sea, as Britain did in the past and the United States does today.³ If the land controlled is not contiguous, but is distributed on various islands and continents, sometimes one uses the term “thalassocracy.” Sometimes, however, this term is reserved for polities that solely control coasts and not mainland interiors. In this case, the concepts “empire” and “thalassocracy” become mutually exclusive.

The definition I have just given is based on the specific features of two of the three basic elements that, according to Georg Jellinek, constitute a state: *territory* and *population*. The third moment is the *state power*; and with regard to this, there is no consensus regarding the definition of empire. Traditional empires presupposed a non-egalitarian form of rule, first, in the relation between the centre and the periphery, second, in the manner in which political power was usually organised at the centre. This latter point is not indispensable, however; think of the Athenian Empire as an example. The Russian Empire would be a good example for both forms of asymmetry, and it has been argued that the last empire in this sense was the Soviet Union (perhaps with the exception of China, which rules over fewer nations⁴). The Soviet Union’s legal successor, Russia, still shares the traits of imperial structure in this sense, despite all its federalist pretensions and democratic appearance. Nonetheless, I propose to limit the defining features of empire to territory and population.

³ On the nature of the command of the sea, see Alfred Thayer Mahan, *The Influence of Sea Power Upon History, 1660-1783* (Boston: Little, Brown and Company, 1890).

⁴ On the multi-ethnic nature of the Chinese polity, see Helwig Schmidt-Glintzer, *China. Vielvölkerreich und Einheitsstaat* (München: C.H. Beck, 1997).

This definition poses no problems in terms of designating large and multi-ethnic federal democracies such as India or the United States of America as contemporary “empires.” One can extend this to the European Union, if one defines “polity” accordingly, given that the EU is not a state, but a supranational organisation.

It is to be noted that in this case the expression “plurality of ethnic groups” assumes different connotations. In traditional empires this term implied that one, or few, ethnic groups were ruling over the others, although both the Roman and Chinese examples show that in the course of time, peoples from the periphery could rise to the highest ranks of power. Restricting political power to one ethnic group is legally excluded in federal democracies, since political citizenship rights are shared by most residents, whatever their ethnic background. (The factual power distribution may still favour one ethnic group.) Incidentally, this is one of the reasons why multi-ethnic polities, at least in the past, have been less compatible with democratic structures than they were with non-egalitarian forms of rule. Democracies are obligated to recognise the political rights of most of their citizens, and the forging of a common political will by means of common deliberations of all citizens is far easier if common values can be presupposed. This, in turn, is facilitated by a common ethnic background (which may well be nothing else than a shared *fiction* of a common ancestry: still, the fiction must be *actually shared* in order for it to operate). Consequently, democracies have traditionally been suspicious of multiculturalism. In Roman history, the acquisition of an empire led to a monocratic (or better, dyarchic) form of rule from Augustus onward, in any case to the demise of the traditional (oligarchic) republic. In the 20th century, an inversion of the implication “if empire, then no democracy” has occurred. In fact, processes of democratisation have frequently brought about the demise of large multi-ethnic empires—think of the Ottoman Empire and the Austro-Hungarian monarchy in 1918, the Soviet Union and Yugoslavia (if we want to call it a tiny empire) in 1989. This is disturbing, since from a universalist point of view both democracy and multiculturalism are desirable structures, and it would be rather nice if they supported each other. Unfortunately, this has usually not been so, and, as we have seen, for understandable reasons.

There are some important exceptions. So far we have not yet discussed the United States and the European Union. An important prede-

cessor to both is the British Empire, which in the 19th century managed to expand, while suffrage was extended in 1832 and in 1867 in Britain itself. At the same time, thanks to the Durham Report, some of the dependent territories were granted “responsible government” as “a way of reconciling the practice of empire with the principle of liberty.”⁵ However, responsible government was given only to white colonies such as Canada, Australia and New Zealand, and as a consequence, after World War II, the spread of the ideology of nationalism led to rapid decolonisation in Asia and Africa, and the demise of the British Empire.

Occasionally, definitions of empire can be found to the effect that an empire is not based on the consensus of its population. This is hardly a reasonable definition, since it excludes a great deal, including modern federal democracies, but not only them. For even if non-democratic empires principally owe their structures to conquest, it is possible that sincere and wide-shared enthusiasm for the emperor in the centre could have developed after some time. This notion is not always based solely on ideological indoctrination but also on the rational insight that people often lived more secure and prosperous lives under the imperial structure than under any realistic alternative. Democracy theorists often tend to identify political consensus with democratic practices, but this is conceptually wrong and also politically dangerous, for it tends to deny legitimacy to stable and popular political systems. Some populations may share a general consensus that it is better for them to continue to live in a non-democratic polity, partly because they anticipate a loss of stability in the transition to democracy, and partly because they mistrust themselves. They may be afraid that an election of their rulers would in fact lead to a less efficient and refined government, less concerned with the common good than the members of a royal family or aristocracy might be supposed to be. Needless to say, those who wish to introduce democracy will always claim that they represent the people’s real will, even if it is only a tiny minority of intellectuals that pushes for that democratisation.

However, this is not a topic that I wish to pursue here. I will call “empire” a polity that satisfies the territorial and multi-ethnic criterion and follow Niall Ferguson, who in the “Introduction” to his book *Colos-*

⁵ Niall Ferguson, *Empire: The Rise and Demise of the British World Order and the Lessons for Global Power* (New York: Basic Books, 2003), 113.

sus: The Price of America's Empire writes: "imperial power can be acquired by more than one type of political system."⁶

In Ferguson's remark, however, the term "acquired" is significant. For it seems to presuppose that imperial power is not an internal property of a state, but a result of an interaction with other states. This leads to the third type of definition of the term "empire." This definition emerges when we analyse a state not on the domestic level, but in the international arena. On this level, the "imperial" quality has to do with its *relation to other states*. In other words, a state is an empire when it has a high probability of imposing its will on many other states.⁷ Clearly, the second and third definitions of empire are often connected—not logically, but in reality. A state with a larger territory and larger population is more likely to succeed in a power struggle than a smaller state. However, this depends on the structure of the international system. Power is essentially a relation and it is impossible to decide whether a relation holds by looking at only one *relatum*. For the purposes of gauging power, one has to determine whether a given land mass is extended or not in relation to the given international system, and not in absolute terms. In a system of fifty states, a polity may be an empire even if it controls much less land and rules over far fewer people, than, for example, another state in a system of six nearly equal states, none of whom can claim to be an empire according to our third definition, because none can impose its will on any of the other states. In order to avoid confusion between the second and the third definitions (the first will play almost no role in the following reflections), I propose to call a nation "hegemonic" (or a "superpower") where it has far more power than others. There can be more than one hegemonic power (if there is only one, one sometimes uses the term "hyperpower," as was the case after 1991 with regard to the U.S.A.), but there must be a limit on the number of hegemonic powers if the concept is to maintain its meaning. This use of the term "hegemonic" has been traditionally upheld in the theory of international relations, and while I

⁶ Niall Ferguson, *Colossus: The Price of America's Empire* (New York: Penguin, 2004), 11; see, also on that page, Table 1.

⁷ It is this sense of "empire" that authors as different as Sidney Lens in *The Forging of the American Empire* (New York: Thomas Y. Crowell Co., 1971), Chalmers Johnson in *Blowback: The Costs and Consequences of American Empire* (New York: Metropolitan Books, 2000) and Karl-Friedrich Walling in *Republican Empire: Alexander Hamilton on War and Free Government* (Lawrence: University Press of Kansas, 1999) have in mind.

do not think that Ferguson's identification of hegemony and empire represents progress in concept formation, I agree with him that the U.S.A. is both an empire and a hegemonic country. The European Union, however, is an empire, but not a hegemonic power: It cannot impose its will on other states for the simple reason that it lacks a common will with regard to foreign policy.

Empires are often, but not always and not necessarily, hegemonic. The U.S.A. and the Soviet Union were both hegemonic powers, because they could impose their wills on their allies. However, if these two hegemonic powers had absorbed all other states in the world and constituted the entire international system, then their empire-like qualities, according to the second definition of empires, would have increased, while at the same time they would have lost their hegemonic quality, since there would have been no other states to dominate. In the opposite sense, a state can be hegemonic without being an empire—as was the case for Germany in 1938. After the loss of Germany's colonies in 1918, the country was no longer an empire according to the second definition of the term. During the Weimar Republic, Germany was an empire only according to the first definition of empires, but, unfortunately, soon after Hitler's rise to power, Germany additionally became an empire according to the third definition. In other words, it became a hegemonic power that would have become an empire according to the second definition, if it had managed to win the war.

Power is a notoriously fuzzy concept, and I will not attempt to clarify it now. Instead, I will presuppose for the purposes of this paper Max Weber's famous definition of power as an opportunity to impose one's will within a social relation, even in the face of resistance, whatever the basis for this opportunity may be.⁸ I will also use some of the conceptual differentiations that can be found in my own theory of power⁹ for the following political analyses. First, we must distinguish between power as the capacity to ward off attempts by a foreign will to force itself upon one, and power as the capacity to force others. In other words, we must distinguish between *power to exclude* and *power to rule*. This distinction applies not only to people but also to institutions. A state may be

⁸ Max Weber, *Wirtschaft und Gesellschaft*, 5th ed. (Tübingen: J.C.B. Mohr, 1980), 28.

⁹ Vittorio Hösle, *Morals and Politics* (Notre Dame, IN: University of Notre Dame Press, 2004), 305ff.

satisfied with defending itself against possible attacks without cherishing any ambitions of interfering with other countries. Again, in reality these two forms of power are often intermingled, since high levels of security against attacks seem sometimes to demand intervention. In particular, it is difficult to see how one can possess the first *capacity* for power without also possessing the second. (I am not speaking about their actual *use*; as is well known, “power” refers sometimes to a capacity, sometimes to its use.) Nonetheless, conceptually the two things are different. It is also important to distinguish between the two for ethical purposes.

Secondly, one usually needs more power to *change* a political situation than to *keep* it, since inertia is a natural tendency of both humans and institutions. This means that a distinction is useful between power applied to maintain the *status quo*, and power applied to challenge it. In this manner, Hans Morgenthau has distinguished between the politics of the *status quo* and imperialistic politics.¹⁰ However, this does lead to the strange nomenclature that a small country fighting to obtain more independence from an empire becomes an imperialist power. To avoid this result, it is better to limit the term “imperialist” to a policy that tries to maintain or create a hegemonic position.¹¹ It is nevertheless important to distinguish between maintaining and creating a hegemonic position, since the latter is viewed with much more concern than the former. One can make a terminological distinction between *defensive* and *aggressive imperialism*. Note that defensive imperialism is not limited to defending one’s own country—it entails the defence of the hegemonic position that a state has already acquired.

Thirdly, power manifests itself principally in three forms: the *threat of negative sanctions*, the *offer of positive sanctions* (and their application in the case of non-compliance and compliance respectively), as well as the *persuasion* of others. Roughly speaking, we can say that these three abstract possibilities materialise within a social system in the *military*, the *economic* and the *cultural* subsystem. We will thus have to distinguish military, economic and cultural power when we analyse the means used by a hegemon to maintain its superiority.

¹⁰ Hans J. Morgenthau and Kenneth W. Thompson, *Politics Among Nations*, 6th ed. (New York: Alfred Knopf, 1985), 52ff.

¹¹ See Michael W. Doyle, *Empires* (Ithaca/London: Cornell University Press, 1986), 19.

Fourthly, once our conceptual framework has reached the sphere of the law, we must distinguish between *power relations based on the law* and *informal power relations* that are not determined by the law and sometimes may even contradict it. This distinction holds for both domestic and international relations. Sometimes, the constitution of a country may ascribe a determinate power to a certain organ, while in real political life, the decision-making power rests with a different organ. International law has known both formal types of rule of a country over another (as in the case of dependent territories) and informal ones, where one country becomes completely dependent on another state's economic help and has no real chance of declining its suggestions, even if that state remains legally a sovereign state. Intermediate forms also exist, such as protectorates and protected states, where the protector is not legally entitled to determine domestic policies, but legally controls the foreign policy of the protectorate. Even today, international law permits a state to become the protectorate of another state by treaty, as long as this relationship does not become compulsory.

II

What is common to, and what distinguishes the two “empires” of the United States and the European Union?

(1) To begin with the common traits, the United States and the European Union share a basic *commitment to the values brought forth by Western European Enlightenment*.¹² To put this simply, one could say that the moral revolution of the Enlightenment, articulated in its philosophically most profound form by Kant, consists of universalism, i.e., the idea that basic rights and duties must be common to all human beings. This is by contrast to the *ancien régime*, which was underpinned by the distribution of different rights to different ranks. Egalitarianism is a doctrine that drove both the American and the French Revolutions.

However, one difference is immediately obvious. The French Revolution quickly became antireligious (even if some of its supporters were deeply religious—suffice it to mention Henri Grégoire), since the

¹² To be more precise, it is radical Enlightenment that has created modern egalitarianism, as Jonathan Israel has masterfully shown. See his *Radical Enlightenment* (Oxford: Oxford University Press, 2001).

Catholic Church was perceived as being necessarily committed to the old order, and religion was more or less identified with Catholicism. In America, however, despite some of the founding fathers being Freemasons, the revolutionary forces were partly driven by *religious motives*. One of the main motives for crossing the Atlantic was a particularly serious religious conscience, which led to the refusal to submit to the established religions. Even the representatives of a religion as hierarchical as the Catholic one embraced the democratic principles of the new polity, as Tocqueville already stated.¹³

Paradoxically, the higher personal religiosity of the average American, as manifested, among other things, by a more frequent attendance at religious services, is not only compatible with, but even conducive to, and reinforced by, the strict separation of church and state that characterises the constitution of the United States. In the long run, the mixing of spiritual and secular matters tends toward a dilution of the spiritual dimension. It rarely aids the purity of religious motivation if a stipend for the minister of the established religion is guaranteed by the state. This separation, however, allows for greater religious diversity. At a time when most European countries did not grant citizen rights to Jews, the U.S.A. was from its beginnings a Christian-Jewish community. The combination of religious tolerance with religious fervour is probably one of the most remarkable features of the United States.

It is with regard to the religious dimension that the differences between Europe and the U.S.A. are greater now than they were in the late 18th century. In the 19th century, Europe suffered a loss of the traditional religious faith that is unmatched by any events in the intellectual history of the United States. Certainly, the intellectuals of the U.S. coasts have by now become familiar with radical European thought. But they did so only during the course of the 20th century, and in the Midwest an early modern form of Christianity that has survived almost nowhere in Europe is still widespread. I do not mean the Amish people so much as traditional Protestant orthodoxy with a belief in the literal inspiration of the Bible, a traditional Christology, etc. On the one hand, this form of Christianity is usually perceived as primitive and unrefined, even bigoted, by most Europeans. On the other hand, it is hard to deny that it has a greater vitality than the subtler European forms. The soul of the populace does

¹³ Alexis de Tocqueville, *De la démocratie en Amérique*, vol. II, section I, ch. 5 and 6.

not seem able to digest a great deal of intellectual sophistication; its introduction, however philosophically legitimate, may result in bleak atheism. And one cannot doubt that one of the many causes that prevented America from joining the dark era of political totalitarianism was that its Christian heritage was more intact than in Europe. Today, it is one of the reasons idealistic people reject the doctrine of non-interference in foreign regimes that are perceived as unjust with much greater passion than we find among Europeans. Missionary enthusiasm, subjectively sincere even when shamelessly manipulated by cynical interests, remains a constant of the American national character, often difficult to understand for nations like those of the European Union, which are both less religious and more embarrassed by the crimes committed in their far longer history.

(2) Universalists do, of course, acknowledge that a differentiation of rights is inevitable in order for a state to be fully functioning. However, the implied idea is that the burden of proof is with those who claim that a peculiar differentiation is justified. Furthermore, a decisive part of their argument must be to show that the differentiation is in the interest of those who are deprived of rights granted to others (for example, the children of suffrage). Ethical universalism leads to liberalism and, if certain conditions hold, to democracy. These are generating principles of a political system, since the two doctrines grant equal rights to all humans, the first one on the pre-political, the second one on the political level. The reason democracy does not flow as directly from universalism as from liberalism is the following.

The evaluation of a political system is based on two different criteria. On the one hand, it should have an intrinsic value; on the other hand, it should be useful, i.e., produce just laws with a certain level of probability. On the basis of universalism, democracy inevitably has an intrinsic value superior to non-democratic forms. But it is far from guaranteed that the granting of political rights to uneducated people will lead to laws based on a universalist concept of justice. This explains why many figures of the Enlightenment, from Voltaire to Kant, favoured a form of enlightened absolutism and were fearful of democracy.

No doubt, the United States was committed to democratic ideals at an earlier stage than almost all European countries, since it never had a monarchy or an aristocracy. Its victory in both world wars contributed strongly to the expansion of democratic forms of government in Europe. However, it is important to make two clarifications here. First, the consti-

tution of the United States possesses a remarkable continuity with the British constitution. True, it does not have a monarch or a House of Lords, but already in the 18th century the British system had *de facto* become a parliamentary monarchy, i.e., the prime minister had to have the support of the parliament. Furthermore, the triumph of the Reform Act in 1832 signified that the House of Lords could be forced to yield to the House of Commons *via* the threat of creating new peerages. (It was only the Parliament Act of 1911, however, that reduced the legislative power of the Upper House in a legally binding way.) Second, in the United States, too, the democratic principle was limited. Even today, there is still no direct election of the president, and the senate became based on direct election only in 1913 with the Seventeenth Amendment. The first generating principle of the American constitution is the separation of powers, both horizontal, as the first three articles prove, which inherit the basic idea from the British constitution, and vertical, as the fourth article shows; and only within this architecture has the principle of democracy taken its place. The continued belief in natural law is another reason the U.S.A., which has again and again used unbounded democratic procedures (such as referenda) to justify its rule, has withstood totalitarianism. The recognition of the exercise of judicial review by the Supreme Court, even if not explicitly granted by the constitution, was one of the most original steps in the history of constitutional thought and is a superb expression of the subordination of the democratic principle to the idea of the separation of powers.

While this limitation of democracy has been imitated by most modern liberal democracies, another limitation was far more problematic. In the 18th and 19th centuries, the U.S.A. did not have universal suffrage any more than the United Kingdom. A country such as the German Empire (not Prussia!) had already obtained universal male suffrage in 1871: the United Kingdom received it in 1918. The United States still has not integrated it into its federal constitution. The latter only prohibits limitations to suffrage based on race, gender, property qualifications and age when eighteen years or older (in the Fifteenth, Nineteenth, Twenty-fourth and Twenty-sixth Amendments). As is well known, in the southern states black voters, based on literacy requirements, were disenfranchised until the 1960s when the National Voting Rights Act of 1965 finally stopped the practice. And the residents of the District of Columbia are still disenfranchised with regard to the election of Congress.

This is, by the way, less surprising than it may seem at first glance. There are different dimensions to democratisation, which are logically independent of each other. One would be the degree to which the rule of law pervades society. If laws are democratically passed but are regularly violated with impunity, then we have a democratic constitution only in the legal realm and not in the social realm.¹⁴ However, even if we focus on the legal framework, we must distinguish, first, between the number of state organs and decisions based on direct elections and, second, the percentage of people with suffrage, and, third, the possibilities of differentiation in the elections.¹⁵ I must ignore here the third dimension and focus instead on the first two (even if, for example, the two-round-system in France has significant advantages compared with the simple plurality voting system of the United Kingdom). Not only are these two dimensions logically independent, but in political reality there is tension between the two. People are less willing to share something the more this sharing entails, and consequently it is not at all surprising that a country that is more democratic in the first dimension (i.e., with more state organs and decisions based on direct elections) may be less democratic in the second dimension (i.e., have a lower percentage of people with suffrage). Think of female suffrage as an example. The first major European country to grant it was Finland in 1906, when it was still a Grand Duchy in the Russian Empire. The parliament had limited powers and, thus, female suffrage did not mean a great deal. Switzerland, however, the most democratic European country according to the first dimension I have laid out, was the last to introduce female suffrage (in 1971), if we ignore the tiny Liechtenstein, which made suffrage universal in 1984. France, traditionally more democratic than Germany, introduced female suffrage in only 1944, while Germany had already obtained it in 1918. The United Kingdom, in its democratic culture situated between the two countries, received universal female suffrage in 1928.

The differentiations I have just introduced may help us to understand why the triumph of universalism has been so slow. Its central principle

¹⁴ One of the foremost theorists of democracy and democratisation, Guillermo O'Donnell, has coined the term of "brown zones" to characterise areas that are not controlled by law ("On the State, Democratization and Some Conceptual Problems: A Latin American View with Glances at Some Postcommunist Countries," in *World Development* vol. 21, n. 8 (1993), 1355–69).

¹⁵ See Hösle, 530ff.

still remains alien to the mentality of many cultures that have accepted a legal system based on its ideas. The Constitution of India is inspired by the moral principles of universalism. However, the ugly reality of caste is in blatant contradiction with these principles, and the conflict between the two systems is a driving force of Indian politics, which has created large “brown zones.” In addition, we should not forget that long hard battles were necessary to realise universalism in the legal system of the Western states. Even there, the persistence of pre-universalist norms has been tenacious. One has to think only of slavery, the most obvious violation of the universalist principle. It was the most democratic Western country, the U.S.A., that kept slavery until 1865, while European countries abolished it earlier, thus rightly enjoying a feeling of moral superiority with regard to the United States, which, however, took enormous pride in its republican constitution. But one should be more precise and hasten to add that slavery was abolished earlier in the European mother countries than in their colonies. Even the France of the French Revolution outlawed slavery in her colonies only in 1794, but it was soon reintroduced by Napoleon, and its abolition occurred only in 1848. And the *travail obligatoire* in the colonies continued until 1946.

(3) European colonialism was perceived by the United States in itself, independent of the slavery issue, as morally wrong, to a large extent because of its own status as a former oppressed colony, which formed a fundamental part of the founding story of the U.S. This did not prevent the United States from acquiring some dependent territories (and it still keeps some of them today), and far less did it prevent it from becoming a hegemonic power—and, after the end of the Cold War, from becoming a hyperpower. However, this rise to hegemonic status is distinct from the European colonial past in at least five respects. First, the United States did not colonise areas far away from home, as European countries did in Africa. Secondly, in the case of Hawaii it granted, after some time, full citizenship rights to the inhabitants of the occupied country, which European countries very rarely did. In Algeria, Algerians could receive French citizenship only if they converted to Christianity. Thirdly, even if it occupied many states (particularly in America), the U.S.A. usually withdrew its troops after some time. Needless to say, this did not at all signify the end of its informal rule, and one may argue that this informal rule was simply a cheaper solution than the creation of de-

pendent territories.¹⁶ This is partly true, but it cannot be denied that the reluctance to become a colonial power in the same way as the Europeans was not only based on interests but also on values. This explains why, fourthly, the longest colonial phase of the United States, the inheritance of the remains of the Spanish colonial empire after the war of 1898, was understood by many Americans as the temporary result of a war against an unjust colonial power (even if there were also explicitly expansionist forces behind the war). Fifth, one has to recognise that despite all the crimes committed, for instance in Cuba and the Philippines, the United States did not match the darkest atrocities of modern European colonialism (the peak of which was Leopold II's personal rule over the Congo Free State from 1885 to 1908). Again, all this did not prevent the United States from rising to hyperpower status, mainly through the tool of informal rule and through an extremely efficient combination of its economic, cultural and military power. The reason that this rise did not trigger stronger attempts by other powers to prevent it is simply that the hyperpower status was, to a large extent, but not exclusively, a "windfall profit" from the two world wars, for which the U.S.A. did not bear any considerable responsibility. Europe destroyed itself in these wars, and the power vacuum was filled by the Soviet Union and the U.S.A. When the former imploded, the U.S.A. remained the only superpower. The surprise at this event engendered completely exaggerated fears on one side and megalomaniac hopes on the other side that this *status quo* would last. But the "New American Century," hailed by William Kristol, will not last more than two or three decades.

American slavery and European colonialism explain why the charge of hypocrisy has been so often levelled against modern liberalism.¹⁷ The situation is, in fact, even more complex, as sometimes the colonial power meddled in the internal affairs of the white colonists in order to protect the natives, thus, at the same time violating the democratic principle of self-rule while being respectful of universal human rights. After all, the British government of the 18th century took the rights of the native Americans more seriously than many early American govern-

¹⁶ On the utility of not annexing dependent states, see Montesquieu, *De l'esprit des lois*, Book 9, ch. 6 and Book 9, ch. 10.

¹⁷ See, for example, Domenico Losurdo, *Controstoria del liberalismo* (Roma/Bari: Laterza, 2005) and Dino Costantini, *Una malattia europea. Il 'nuovo discorso coloniale' francese e i suoi critici* (Pisa: PLUS, 2007).

ments. Nonetheless, however one constructs the cant characteristic of the modern Western states, one should not forget that the moral contradictions in them are more acute for the simple reason that they have embraced a higher moral principle. This principle demands no less than an undermining of the radical difference between in-group and out-group behaviour that belongs to our biological heritage; and this is inevitably a long and arduous process. Hypocrisy has to be condemned, but one must avoid, in doing so, creating a situation of open cynicism. Hypocrisy at least recognises certain standards, and the appeal to these standards may lead to moral improvements. A preference for cynicism over hypocrisy is based on the incorrect moral principle that sincerity is the highest value.

(4) Universalism is a formal principle, and thus there is far less agreement as to whether it entails some degree of equality in property. The commitment to equal rights is compatible with the principle that property must be differentiated according to one's contribution to the satisfaction of the needs of other people. Since the capacity of doing so varies strongly among humans, a non-egalitarian distribution of property and income may be defended on universalist grounds. No doubt, one of the basic differences between the European Union and the U.S.A. relates to this issue. The fact that in 2005 around 16 per cent of American citizens lacked health insurance is something that distinguishes this country markedly from the European Union, and hardly to its glory. What are the reasons that the United States has been far slower in building up a welfare state than the countries of the European Union? I see at least five.

First, many immigrants to the United States fled from a state that they had experienced as repressive, and they were, and are, suspicious of a state that concentrates power in its own hands, even for the most benevolent purposes. In addition, doubtless a welfare state needs more funds, more bureaucrats and more laws than a classical libertarian state. The idea that the state may oblige people to buy into insurance is less compatible with the American ideal of freedom than it is with the European concept, which always recognised a social dimension of freedom. A person is regarded as free not so much if she can do what she wants, but if she acts reasonably and shares a communal life. Secondly, the different ethnic backgrounds of its immigrants rendered it more difficult to mobilise those feelings of social solidarity that European nationalism could rely upon. Thirdly, most people in the U.S.A. being immigrants or descendants of immigrants, the U.S. population had less aversion to risk

than those who remained behind in Europe. The differences in mentality can thus be explained by a double selection—a positive and a negative one, for the U.S.A. attracted the same type of people Europe was losing. Fourthly, the pre-modern economy compensated for its lack of flexibility *via* structures of social responsibility. They were partly symmetrical, such as in the case of the guilds, and partly paternalistic, such as in the feudal system. With the rejection of this pre-modern value system in the United States, capitalism could unfold far more efficiently, but also more brutally with regard to those who could not adapt to it. Fifthly, the far lower demographic density of the United States opened up the possibilities of “going West” that in Europe simply did not exist. In Europe, the state had to intercede, or people would have died in high numbers, as they did in the Irish famines of 1740–41 and 1845–49, and in the Finnish famine of 1866–68.

Nevertheless, with regard to the dimension of welfare, the differences have diminished. The Great Depression forced the U.S.A. to adopt the New Deal. Even if the federal constitution of the United States does not recognise welfare rights, from 1937 onwards it has been interpreted in such a way so as not to prevent federal legislation from granting these rights, and they have clearly spread in the last seven decades. Furthermore, one must recognise that a federal state is a complex unity of the central state and the member states, a unity that cannot be reduced to either of its elements. Now, many state constitutions recognise welfare rights in different forms.¹⁸

It is also important to add that differences in the legal system are partly counteracted by common features in the value systems of the respective civil societies. Indeed, when one compares two political systems, one cannot limit oneself to looking at the laws. Even if Hans Kelsen were right in his identification of law and state, the state can thrive only because it is based on the mores of people, which are shaped by values. The common Christian and Jewish heritage explains why charitable organisations play a role in both Western “empires” and contribute to softening the differences due to the different degree to which the welfare state has been enacted. In fact, the lack of public welfare is one of the reasons wealthy Americans do not believe, as many Europeans do, that

¹⁸ I name only, for example, the Constitution of the State of Indiana (e.g., Article 8, Section 1; Article 9, Section 1).

they have fulfilled their duties by paying their taxes, but engage in charitable activities and the creation of charitable foundations to a degree unknown in Europe—and often with more lasting results than state bureaucracies, which first and foremost must satisfy the needs of their electorate, can achieve. Despite the obvious differences between Europe and the U.S.A. regarding the appropriate level of the welfare state, I venture the prognosis that these differences will shrink in the next decades, also due to the crash of 2008. On the one hand, globalisation forces the European Union to reduce excessive welfare rights in order to maintain the competitiveness of its economy. On the other hand, the political attractiveness of the United States is tarnished by brutal and alienating forms of poverty, which inevitably increase criminality and the costs of deterrence and prisons. This creates an incentive even on the conservative side to create a less stingy welfare state.

(5) The differences in the level of the welfare state is one of the various reasons that the American economy has shown greater dynamism than the European, and has become the strongest among all states of the world, enabling the U.S.A. to expand its power by the widespread use of its currency, which, nonetheless, has been increasingly challenged by the Euro. In fact, more people live in the EU than in the U.S.A., and in 2007 the GDP was higher in the EU than in the U.S.A. (although this is not true for the GDP *per capita*). This has to do with various factors, of which I want to name two. First, the American economy is more meritocratic than the European economy, where corporative traditions, the remains of the old rank society, a respect for old age, and the power of the trade unions limit the most rational allocation of the labour force (which includes the firing of people who prove unable to do their job). Social mobility in both directions is higher in the U.S.A. than in many European countries. This is partly a result of certain laws, and partly due to a mentality that cherishes merit over the maintenance of the *status quo* and, moreover, is more willing to fight against that formidable human motive, envy. Secondly, an intelligent policy of immigration has enabled the recruitment of some of the most industrious and talented persons, who have proven to be a continuous source of economic growth. One of the great differences between the United States and the traditional European states is that the former has, during most of its history, been open, to differing degrees, to immigrants from many countries. Despite the function of English as both official language and *lingua franca*, it is as

multilingual as the traditional empires, but at the same time is able to teach English to most of its immigrants and to integrate them quickly into its own value system and market economy. By doing so, it has helped promote a global civil society, for those persons who later leave the United States and return to their countries of origin bring with them the standards and norms of “Anglobalisation.”

Because of its demographic decline, Europe needs more immigration, but, in fact, it has been far less able than the U.S.A. to engage in such a policy, and immigrants, often illegal, are not well integrated into European societies. It cannot come as surprise that after World War II, the GDP *per capita* in the U.S.A. was considerably higher than in Europe, which had been ravaged by war, nor that, although Europe has closed the gap in the last decades, it has never quite been able to catch up. True, the enormous public and private debt of the Americans and the trade deficit shed a more sombre light on the successes of the American economy. Furthermore, the GDP is a profoundly troubling measure, because it also contains so-called “defensive costs” that can hardly be viewed as contributing to the substantial wealth of a country. Building on a study by Robert Gordon, Mark Leonard writes that much of the American GDP goes into unproductive things such as the social costs of inequality, air conditioning, heating and cars, which are necessary because of poor public transport, and concludes: “Although Western Europeans only work three-quarters as much as Americans, they get ninety percent of the return, coupled with far more equal income distributions and lower poverty rates.”¹⁹ It does not seem fair to me that defensive costs that are rendered necessary by different climates are put on the same level as defensive costs caused by the lack of public transport, i.e., by poor political decision-making. But certainly Leonard’s point that the GDP cannot be the decisive criterion for measuring a country’s success is well taken. It may well be a respectable decision to increase one’s leisure instead of one’s income; work should not be an end in itself, as the Calvinist work ethic suggests, but should serve legitimate purposes. A reasonable measurement of the wealth of a nation must furthermore take into account the

¹⁹ Mark Leonard, *Why Europe Will Run the 21st Century* (New York: Public Affairs, 2005), 83ff. Leonard’s book continues points made by Jeremy Rifkin, *The European Dream: How Europe’s Vision of the Future is Quietly Eclipsing the American Dream* (New York: Polity Press, 2004).

destruction of the natural environment, and there is little doubt that in the last decade, Europe, or to be more precise, several European countries, have been more willing to accept the ecological challenge than the United States, whose refusal to sign the Kyoto Protocol, flawed as it was, did not show an understanding of the basic demands of international and intergenerational justice. The impact of the average U.S. American on many natural resources, his “ecological” footprint, is considerably higher than the average European’s, which in itself is not “universalisable”: The planet will collapse if all people rise to the same level of consumption.

As much as the integration of the ecology into the economy is a decisive task, one should not deny that economic rationality is necessary in order to solve the ecological problems facing the world. We need an economically sound choice in ecological policy, we must introduce economic incentives for eco-technologies, and we need high prices as indicators of scarcity. If under the new administration the United States decides to dedicate its impressive economic rationality to the solution of the ecological issue, it might prove more successful than the European Union. Economic rationality is a form of instrumental rationality, and whether it proves beneficial or detrimental depends completely on the ends one chooses. American optimism sometimes refuses to see threats that are objective, and the high self-esteem of the American people, American exceptionalism, probably prevents them from grasping the simple truth that the American way of life cannot be universalised and is, therefore, immoral according to the decisive principle of modern ethics that has permeated American society. But European pessimism can become a self-fulfilling prophecy. Pessimism allows one to identify dangers, but when we act, a certain dose of optimism is inevitable. Europe should not take it for granted that its more developed environmental consciousness will last long into the 21st century.

(6) Europe tends to look at the United States as an impoverished aristocrat glances at a *nouveau riche*. There is little doubt that the United States has not been able to produce artworks comparable to those of Raphael, Shakespeare or Beethoven, and the flatness, not to say the vulgarity, of American popular culture is indeed again and again shocking for Europeans. One feels that one of the basic differences between the two polities consists in the fact that America never had an aristocracy. This facilitated the triumph of democracy and the market, but it did not help to foster an elevated aesthetic sense of the kind which thrived at the

European courts. The greater legal equality in the horizontal dimension threatened the recognition of superiority in the vertical spiritual dimension. Still, there are two important corrections to make. First, the great past of European culture does not signify that today it is in better shape than the American one. I do not have in mind the worldwide triumph of American popular culture, which in itself is not an argument for quality; I mean that even with regard to high culture in the form of literature and film, there are good reasons to consider contemporary American productions as superior to contemporary European ones, as deficient as they are when compared with the great European past, which had its last creative peak in the decades between the two world wars. Secondly, even if the first American PhD degrees were granted only in the 1860s at Yale, and even if the first research university in the United States, Johns Hopkins University, was only created in 1876, today the best universities in the world are American and, with the exception of the United Kingdom, European universities rank quite low. Since the future of a society depends to a great degree on the production of knowledge, this does not bode well for the European Union. The reasons for the decline of the European universities can be summed up quickly: insufficient funds due to the refusal of parents to invest private money into the education of their children, counterproductive controls by an inefficient state bureaucracy, a corporatist mentality in professors who are not paid according to merits and are fearful of superior quality, lack of competition between the universities, and not enough selection of the students by the universities themselves. There is no doubt that an increased effort in a common research and university policy, well beyond the Bologna process, would be of paramount importance for the future of the European Union.

(7) The U.S.A. is not only the country with the largest GDP in the world and the country that receives most Nobel prizes in the sciences; it is also the most formidable military power in the world with the highest military budget. While the British Empire governed roughly a quarter of the world's population and ruled over almost a quarter of the planet's land, it "was never as militarily dominant then as the United States is today."²⁰ No less important than the chance of winning a war is the willingness to wage war, and there is little doubt that the U.S.A. regards war

²⁰ Ferguson, *Empire*, XII and XV.

as a far less problematic political tool than does the European Union.²¹ This has various reasons.

First, the U.S.A. has suffered far less from the two world wars than European countries, for which the desire to avoid war became paramount after 1945—and indeed, with the remarkably successful result of transforming a continent characterised in past centuries by countless wars into a region almost free of war. The “almost” relates to the Yugoslavian wars from 1991–99, and as shameful as the European failure in this context was, it may be partly excused by the fact that the European Union was confronting an utterly new situation for which it had not been prepared. Secondly, since the U.S.A. has not been engaged in colonialism to the same degree as European countries and has not provoked a war as utterly stupid as World War I, nor as utterly criminal as World War II, it has maintained a sense of national pride in its own military past, which enhances its willingness to continue to wage wars. Countries with a sense of having waged unjust wars are usually less prone to go to war again than a state that can claim to have saved the world from National Socialist and Japanese domination, South Korea from Communism, and Eastern Europe from the Soviet Union. Thirdly, after the morally highly dubious nature of the Vietnam War led to widespread qualms regarding American warfare, the U.S.A. shifted to a professional army, which is less paralysed by moral criticism of the country’s foreign policy. This has allowed the U.S.A. to continue its worldwide military presence, even if this is at a high moral price. While in traditional aristocratic societies, including the British Empire, males with the highest social status often took the greatest personal risk in war, in the United States the people who die for the country usually come from the poorest classes. They enlist most easily because of the lack of alternatives, while those who benefit financially from the results of war expose neither themselves nor their children to casualties. There is something repugnant in this; no less so in the result that people from the lower classes often are less able to engage in chivalrous warfare and to dedicate themselves to hermeneutical activities that may diminish the brutality of war. The British tried far better than the Americans to understand the foreign nations they defeated, as again became visible during the occupation of Iraq.

²¹ See Robert Kagan, *Of Paradise and Power: America and Europe in the New World Order* (New York: Alfred Knopf, 2003).

Fourthly, it is probably fair to say that the experience of going west led to a heroic cult of violence, which sees in retribution an act of manly courage; this also explains the survival of the death penalty in the U.S.A., in contradistinction to the *ordre publique* of Europe²², and much more in continuity with Islamic states. With regard to the moral dimension of the European and American attitudes to war, widely absent from Kagan's analysis, there is no easy answer, for it always depends on the concrete war at stake. It is cowardly to ignore threats and look away when innocent people are slaughtered; but it is despicable to believe that might is right. And it is not plausible to want to maintain a military power that is only justified during times of totalitarian threat. The desire to do so may well lead to the invention of new threats that are needed in order to find a secondary rationalisation for the use of violence.

The Iraq war was in many ways a turning point in the exercise of American hegemony. Rarely has a superpower lost its credibility in such a short time, as did the U.S.A. in the events after 9/11, which had generated a worldwide wave of sympathy. The moral justification of the Iraq war—the alleged existence of weapons of mass destruction—was clearly invalid. While the war against Afghanistan was widely perceived as a defensive war, and even where its imperial nature was acknowledged as a form of *defensive imperialism*, the attack against Iraq smacked too obviously of *aggressive imperialism* and was too clearly linked to the interests of the American oil industry for this aggression not to engender hatred against the American hegemony. The war was not only immoral, however. The attempt to bring a stable democracy to the country has not been very successful either. An army can be quickly defeated by superior weapons, but even hyperpowers are not well equipped against guerrilla warfare and terrorism. Being able to destroy an enemy (to exclude him) does not also entail possessing the power to rule a country. Although the American exercise of military power motivated countries such as Libya to renounce terrorism, it probably enhanced the desire of countries such as Iran and Syria to gain nuclear weapons, the lack of which had made Iraq so vulnerable. And it is not easy to see how the United States, in spite of all its might, would be able to wage a war simultaneously against Iraq and Iran. In many ways, the Iraq war has shown the limits of Ameri-

²² See the sixth and the thirteenth protocols of the Council of Europe to the Convention for the Protection of Human Rights and Fundamental Freedoms.

can power more openly than anything else could have done. Whoever believes in a providential reading of world history may well presume that the function of Bush's presidency in the divine plan was to bring the American hegemony down.

The lack of an *ius ad bellum* in 2003 does not imply that the Americans should leave Iraq as quickly as possible, for they have assumed responsibility as a *de facto* occupying power, and leaving the country at risk of civil war would only add a further crime to the first wrongs. American traditions, however, push in the direction of a quick withdrawal. Niall Ferguson has argued in *Colossus* that the U.S.A. wrongly refuses to continue the imperial tradition of Britain and that this has to do with the high economic costs of imperialism that a country as indebted and economically dependent on other countries as the United States is unwilling to shoulder. No doubt this is one of the reasons, but the other is that modern international law and moral sensibility simply do not permit the annexation of other territories. I agree with Ferguson that the British Empire was a superb political structure because it rendered possible the globalisation of the economy, and because it came closer than anything else in world history to the idea of a world government, which in the meantime has become even more necessary due to the global nature of the contemporary economy and the ecological threats. However, one thing is clear: It is neither morally permissible nor politically feasible to try to build up such a structure by force. This can only be done through the voluntary association of sovereign states and finally the delegation of sovereignty. A union of regional unions may lead to some form of world government in a multi-tiered federal state, not conquest. Even the maintenance of the hegemonic position of the U.S.A. will become more and more problematic due to the contradiction between the universalist nature of its ideals and the asymmetry in power distribution that it represents.

(8) This is why the European Union is such a fascinating project. It has banished war from Europe by fostering economic co-operation and guaranteeing security to all member states, including the smallest ones, which profit disproportionately from this. The enormous political success of this structure, which seems to realise the plans laid out by Kant in *Perpetual Peace*, compensates for the difficulties that political scientists encounter when they try to describe its structure. It is neither a confeder-

acy nor a federal state;²³ the German Constitutional Court has used the neologism “*Staatenverbund*” to describe it. If we go back to earlier times, the political structure that comes closest to it is probably the Holy Roman Empire. When Jan Zielonka calls Europe an empire, it is this peculiar structure that he has in mind, and certainly not the British Empire. He distinguishes a neo-Westphalian empire—named after the modern states that evolved after the Thirty Years’ War—from the neo-medieval empire represented by the European Union, and he contrasts the two in the following way. The former is based on conquest, is centralised, uses coercion and bribes, applies military and political means of control, has clear and sharp borders between metropolis and periphery, is characterised by perpetual asymmetry and hierarchy, has a high degree of universalism and constrains or denies altogether sovereignty in the periphery. The latter (the neo-medieval empire represented by the European Union) acquires territory by invitation, is polycentric, uses incentives and applies economic and bureaucratic means of control, has fuzzy borders between centre and periphery, grants the periphery gradual access to the decision-making of the metropolis, has a low degree of universalism, and shares sovereignty.²⁴

Of course, the contrast is not always convincing. Incentives and bribes are not structurally different (they are both forms of positive sanctions), and already the federal state somehow “shares” sovereignty between the central and the member states. But certainly the mode of territorial acquisition is decisive: Russia and the U.S.A. used much violence in their expansion in Asia and North America respectively, even if this was mainly against tribes that were not yet organised as modern states. After the failure of the four attempts at forging an imperial European structure under Philip II of Spain, Louis XIV, Napoleon I and Hitler, the formation of a European Union by consent rightly appeared as the only

²³ This explains the lack of direct democratic legitimacy of the European Commission, which is not elected (only confirmed) by the European Parliament, but nominated by the Council of the European Union. But since the European governments are themselves democratically legitimised, I do not see a very serious problem with this situation, even if the eventual transformation of the European Union into a federal state will have to address this issue.

²⁴ Jan Zielonka, *Europe as Empire: The Nature of the Enlarged European Union* (Oxford: Oxford University Press, 2006), 14. See also 156ff. on the differences between the U.S.A. and the European Union.

feasible, morally acceptable and legal way, international law having prohibited the use of force with the Kellogg-Briand Pact and the Charter of the United Nations. Trust in a policy of balance of power has been frustrated by modern European history, and, thus, no country has objected to the rise of the European Union, which never used violence to increase its size. What distinguishes it most strikingly from the Holy Roman Empire, which shrank in its history, is that the European Union has expanded remarkably in the course of the last decades.

The European Union with its twenty-seven members is more than a loose confederacy, but it is certainly not a federal state. The right to leave the union rests with single states. Even if such a right was not recognised in the Treaty of Rome of 1957, Greenland left the European Community in 1985. With the ratification of the Treaty of Lisbon, the replacement for the failed Constitution, the right to leave the union is explicitly recognised (Article 1, 58, introducing a new article 49A in the Maastricht Treaty on European Union). One of the peculiarities of the European states is that they cooperate to different degrees—in 2009, only sixteen members of the European Union have joined the Euro zone, the Schengen Agreement was not signed by Ireland and the United Kingdom (but was signed by four non-EU members), and no more than ten EU states are full members of the Western European Union, whose merger with the European Union is far from decided. Most, but not all members of the European Union are members of NATO, which also contains states that did not join the European Union, including the U.S.A. and Canada, as well as European states such as Iceland and Norway.

These multiple identities inevitably render the European Union less able to act in unison than a federal state such as the U.S.A. Also, the creation of the High Representative for the Union in Foreign Affairs and Security Policy does not change the fact that the European Union is far more united in its economic, particularly agricultural policies, than in its foreign policy. The U.S.A. was easily able to divide the European countries during the Iraq war, and it can hardly come as a surprise that a country such as Poland felt more protected by the U.S.A. and was highly alarmed by the agreement of Schröder and Putin. The inter-European wars are not forgotten, and different historical experiences have manifested themselves as recently as 2008 in terms of the differing reactions of the European countries regarding the recognition of Kosovo. And, yet, one has to recognise that the European Union has achieved something

quite extraordinary in the international arena. Through the promise of enlargement, it has been able to accelerate economic and legal change in Eastern Europe and to achieve stable institutions. Paradoxically, it is precisely because of its lesser military power that Europe has gained a higher power in ruling, instead of merely excluding. "Europe doesn't change countries by threatening to invade them: its biggest threat is having nothing to do with them at all. While the EU is deeply involved in Serbia's reconstruction and supports its desire to be "rehabilitated" as a European state, the U.S.A. offers Colombia no such hope of integration through multilateral institutions or structural funds, only the temporary 'assistance' of American military training missions and aid, and the raw freedom of the U.S. market."²⁵ For even when the U.S.A. develops a free-trade agreement with another country, it does not offer free movement of persons, which is so characteristic of the European Union.

Doubtless, the offer of integration into the European Union, as opposed to the bombing and occupation of a country, is a morally preferable tool, in addition to being a more politically successful one in the long run, particularly in terms of expanding the rule of law and democracy. Nonetheless, there are two important caveats. First, the way in which Europe defines its borders will play a very significant role. Will the positive influence it exerted on Eastern Europe continue with regard to other countries, or will it stop in some years' time, once the last European countries have acceded? If the latter occurs, then the positive influence praised by authors such as Leonard and Zielonka would cease. It is true that the principle of association may be imitated in other regions (even if it is naïve to believe that in the near future Japan and Korea will be able to cooperate as Germany and France began to do relatively shortly after the last war); but then if this principle were followed, it would not be the European Union that runs the 21st century, but the principle represented by it. A far more important historical success would be achieved if the European Union maintained the tempting possibility of accession open to more and more countries neighbouring its new borders. The exclusion of Turkey, whose political changes in the last decade have been extraordinarily impressive, would not only be a breach of trust, it would also be politically stupid, since it would teach the Muslim states that they have nothing to win by adapting to the European *ordre*

²⁵ Leonard, 6ff.

public. It is far wiser to keep the question of possible new members open indefinitely.²⁶ This is particularly true given that differing degrees of co-operation are already a feature characteristic of the European Union. The United Kingdom is not likely to join in a European federal structure at any point in the near future, because it rightly sees its interests and values more in harmony with those of the United States than with those of continental Europe. But should any states within the European Union decide to merge, they should not be prevented from doing so, either by the United Kingdom or by possible new members.²⁷ In addition, this means that it is not reasonable to stop the enlargement in the futile hope that the European Union should, instead of expanding, now intensify its unity. The argument may have made sense when the European Union had ten members, but this is no longer valid when the EU consists of twenty-seven states. Not only should Europe build free-trade areas with the neighbouring regions and overcome its agricultural protectionism; it should be glad if the legal *acquis communautaire* is spread to more and more countries.

Secondly, one has to recognise that a relatively loose structure such as the European Union is not apt to survive great historical crises. Most historians today agree that the much-scorned Holy Roman Empire was a pacifying force in early modern European history. But it was not able to prevent the Seven Years' War, and it miserably failed and collapsed in the face of the French Revolution. The remarkable success of the European Union in the last fifteen years is due to the end of the Cold War. Should another totalitarian threat endanger the political stability of the planet, it is far from clear that the European Union would fare as well. Cultural and economic forms of power often engender more stable forms of rule; they can achieve great things in post-war policy (as the European Union did in the Balkans), but when challenged by military power, they have to answer with the same form of power, or else they are

²⁶ See Leonard, 42, 100, 105, 110; Zielonka, 43.

²⁷ The insight that the member states of the European Union could function without difficulties as a federal state, if they already were one, does not entail that the formation of a federal state is likely to occur. See Vittorio Hösle, "Könnte die Europäische Union als Bundesstaat funktionieren? Und kann sie ein Bundesstaat werden?" in *Universitas*, vol. 56 (2001), 1234–44; reprinted in Vittorio Hösle, *Philosophie und Öffentlichkeit* (Würzburg: Köningshausen & Meumann, 2003).

subjugated. In this sense, the European Union is well advised to maintain a strong institutional bond with the United States, as it currently exists in NATO. The dissolution of this bond and the attempt to become a counter-force against the U.S.A. would weaken the commitment to the universalist ideals that have found different expressions in the United States and the European Union, but which remain common to both. It is in the interest of the whole world that the commitment to the rule of law in the international arena, and the readiness to use military force in those extreme cases where there is no moral alternative, do not drift apart, but remain linked and continue to include more states across the planet.²⁸

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²⁸ Peter Baldwin's *The Narcissism of Minor Differences: How America and Europe are Alike* (Oxford: Oxford University Press, 2009) appeared only after the completion of my essay and could, therefore, not be discussed. It focusses on domestic policy.